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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,966	08/18/2003	Paul Slovick	575.040	4160

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FERENCE & ASSOCIATES
409 BROAD STREET
PITTSBURGH, PA 15143

EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,966

Applicant(s)

SLOVICK, PAUL

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-21 and 27-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13-21 and 27-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the movement about the horizontal and vertical axes (cl. 13), the material extending past the lug (cl. 13), the specificities of the extent of the material about 240 degrees and 360 degrees (cl. 14-17), the movement of the tire above the ground and the tire contacting the ground, the support of at least a major portion, the length of the lug less than the length of the supporting material (cl. 29), the electrical winch (claim 33) must be shown or the feature(s) canceled from the claim(s).

The device in Fig. 3 is inoperative because portion 130 is connected to the front side of portion 100 and portion 150 is connected to the back of portion 130. This arrangement would cause the device inoperative since portion 150 would interfere with portion 100 when portion 130 is rotated upward. A close detail view of the connection between 130 and 100 and portion 150 and 130 must be shown.

The various portions in Fig. 5 are unclear. Applicant is requested to provide detail drawing showing portions 130, and 150.

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

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be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 13, 15-21, and 27-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6631834 in view of Jozefczak et al. (5186371). Claims 1-5 of U.S. Patent No. 6631834 teaches the tire including at least one lug and the material as claimed. Claims 1-5 of U.S. Patent No. 6631834 meets all claimed limitations except for the movement about horizontal and vertical axes. It would have been obvious to one of ordinary skill in the art to have the tire support capable of movement about horizontal and vertical axes as taught by Jozefczak to enable one to bring down the tire easily.

3. Claims 13-21, and 27-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 13-21 recite the tire support being capable of movement about a horizontal and vertical axes. The support 150 is fixedly attached to portion 130. The tire support is incapable

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of movable about any axes. The specification shows the pivot arm 130 and the arm 100 are pivotally movable, but not the tire support. Furthermore, the device is inoperative as set forth above.

Regarding claim 21, the original disclosure does not teach the material support a major portion of the interior opening. This is a new matter rejection.

Regarding claim 27, the original disclosure does not teach the tire support affixed to a distal end of a pivot arm. This is a new matter rejection.

4. Claims 18, and 27-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 18, “extent to meaning fully connect” is confusing. It is unclear what is meant by “meaningfully connect”.

Regarding claim 27, “tire spinner affixed to a tire support affixed to a distal end of a pivot arm” is confusing. It is unclear whether the spinner or the support affixed to the distal end.

Claim 28 is incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the winch for support the tire spinner in a plurality of raised positions.

5. Claims 13-21, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jozefczak et al. (5186371) in view of anyone of JP 258755, JP 315351, and Kennedy (1864829). Jozefczak teaches a tire support capable of movement through a plurality of positions about vertical and horizontal axes. Jozefczak meets all claimed limitations except for the mounting comprising the lug and the material extending past the lug supporting the tire.

Anyone of JP'755, JP 315351, and Kennedy teaches that it is known in the art to provide a mounting having a material passing a lug. It would have been obvious to one of ordinary skill in the art to provide a mounting having material passing a lug in Jozefczak as taught by anyone of JP'755, JP 315351, and Kennedy (note spinner and the lug at 32 in Fig. 15; page 3, ln. 60-61) to provide an alternative mounting means.

6. Claims 13-21, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable Jozefczak in view of Hansen. Jozefczak teaches a tire support capable of movement through a plurality of positions about vertical and horizontal axes.

Hansen teaches that it is known in the art to provide a mounting having a material passing a lug (col. 4, ln. 35). It would have been obvious to one of ordinary skill in the art to provide a mounting having material passing a lug in Jozefczak as taught by Hansen to provide an alternative mounting means.

Regarding claims 14-17, it would have been obvious to one of ordinary skill in the art to provide the circumference about 240-360 in the tire support of Hansen to provide the desired circumference of the material.

7. Claims 13-21, and 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Mrozowski et al. (5183192), or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Mrozowski et al. (5183192) in view of Hansen or Kennedy. Mrozowski teaches a mounting movable about vertical and horizontal axes, and portion 28 as shown project past the lug 34.

To the degree it is argued otherwise, it would have been obvious to one of ordinary skill in the art to provide portion 28 pass the lug 30 to enable one to mount the tire easily.

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Furthermore, it would have been obvious to one of ordinary skill in the art to provide the mounting of either Hansen or Kennedy in Mrozowski to provide an alternative mounting means.

8. Claims 13-21, 27-31, and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newbill (6659318) in view of either JP 258755 or JP 315351. Newbill teaches a tire support capable of movement through a plurality of positions about vertical and horizontal axes. Newbill meets all claimed limitations except for the mounting comprising the lug and the material extending past the lug supporting the tire.

Either JP'755 or JP 315351 teaches that it is known in the art to provide a mounting having a material passing a lug. It would have been obvious to one of ordinary skill in the art to provide a mounting having material passing a lug in Newbill as taught by either JP'266 or JP'755 to provide an alternative mounting means.

Regarding claim 31, note the means 22 or 41.

9. Claims 13-21, 27-31, and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newbill in view of Hansen. Hansen teaches that it is known in the art to provide a mounting having a material passing a lug (col. 4, ln. 35). It would have been obvious to one of ordinary skill in the art to provide a mounting having material passing a lug in Newbill as taught by Hansen to provide an alternative mounting means.

Regarding claims 14-17, it would have been obvious to one of ordinary skill in the art to provide the circumference about 240-360 in the tire support of Hansen to provide the desired circumference of the material.

Regarding claim 31, note the means 22 or 41.

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10. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newbill rejection as set forth above in paragraphs 8 and 9, and further in view of either Klein (4047629) or Kennedy (1864829). It would have been obvious to one of ordinary skill in the art to provide winch with a cable as taught by either Klein (note portion 22) or Kennedy (pg. 3, ln. 120-125) to provide an alternative means for holding the pivot arm.

11. Claims 13-21, and 27-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newbill in view of Kennedy. Kennedy teaches that it is known in the art to provide a mounting having a material passing a lug (note spinner and the lug at 32 in Fig. 15; page 3, ln. 60-61). It would have been obvious to one of ordinary skill in the art to provide a mounting having material passing a lug in Newbill as taught by Kennedy to provide an alternative mounting means.

Regarding claim 31, note the means 22 or 41.

Regarding claim 32, it would have been obvious to one of ordinary skill in the art to provide winch with a cable as taught by Kennedy (pg. 3, ln. 120-125) to provide an alternative means for holding the pivot arm.

12. Applicant's arguments filed 12/21/05 have been fully considered but they are not persuasive. In view of applicant's remarks, the 112, 1st rejection with respect to the specificities of the circular material has been withdrawn. There are other remaining 112, 1st and 112, 2nd rejections stand.

With respect to the drawing objections, 37 CFR 1.83(a) requires that all claimed features must be drawn. Therefore, the movement about the horizontal and vertical axes (cl. 13), the material extending past the lug (cl. 13), the specificities of the extent of the material about 240

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degrees and 360 degrees (cl. 14-17), the movement of the tire above the ground and the tire contacting the ground, the support of at least a major portion, the length of the lug less than the length of the supporting material (cl. 29), the electrical winch (claim 33) must be shown or the features canceled from the claims. Furthermore, it is noted that the remark fails to overcome the objection with respect to the operation of the device. As set forth above, the device in Fig. 3 is inoperative because portion 130 is connected to the front side of portion 100 and portion 150 is connected to the back of portion 130. This arrangement would cause the device inoperative since portion 150 would interfere with portion 100 when portion 130 is rotated upward. A close detail view of the connection between 130 and 100 and portions 150 and 130 must be shown.

With respect to the rejections in view of 258755, JP 315351, or Hansen applicant asserts that there is no motivations to combine with the reference, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

With respect to the Mrozowski reference, applicant asserts that Mrozowski fails to teach the circular shape, it is noted that circular is a planar shape. The cross section of a conical shape in Mrozowski is circular as claimed.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

